

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

RONALD OLAJIDE,

No. CR 12-781 PJH

Petitioner/Defendant,

**ORDER REDESIGNATING
CASE AS CIVIL CASE;
REMANDING CASE TO
STATE COURT**

vs.

PEOPLE OF THE STATE OF
CALIFORNIA,

Respondent/Plaintiff.

This case, which was originally designated as a criminal case by this court's clerk's office, constitutes a petition for removal of a state court criminal prosecution brought pursuant to 28 U.S.C. § 1443(1), and is actually a civil rights case and should bear a civil case number. Accordingly, the clerk is ORDERED to terminate the criminal case and to reopen the case as a civil case assigned to the same undersigned judge. Once reopened as a civil case, the court REMANDS for the reasons set forth below.

Ronald Olajide has filed a notice of removal seeking to remove a misdemeanor criminal prosecution from Alameda County Superior Court. In 2009, Olajide was apparently charged with misdemeanor driving under the influence of alcohol or drugs and with misdemeanor driving while having a 0.08% or higher blood alcohol.

Olajide seeks to remove the case under 28 U.S.C. § 1443(1), which provides that:

1 Any of the following civil actions or criminal prosecutions, commenced in a
2 State court may be removed by the defendant to the district court of the
3 United States for the district and division embracing the place wherein it is
4 pending:

(1) Against any person who is denied or cannot enforce in the courts of such
State a right under any law providing for the equal civil rights of citizens of the
United States, or of all persons within the jurisdiction thereof.

5 To remove a case under § 1443(1), the criminal defendant must meet a two-pronged
6 test. First, “it must appear that the right allegedly denied the removal petitioner arises
7 under a federal law ‘providing for specific civil rights stated in terms of racial equality.’ ”
8 *Johnson v. Mississippi*, 421 U.S. 213, 220 (1975) (quoting *Georgia v. Rachel*, 384 U.S.
9 780, 792 (1966)); see also *Davis v. Superior Court of California*, 464 F.2d 1272 (9th
10 Cir.1972) (explaining that removal jurisdiction under § 1443(1) is specific and extremely
11 narrow; claims must relate to statutes explicitly protecting equal racial civil rights). Second,
12 it must appear “that the removal petitioner is ‘denied or cannot enforce’ the specified
13 federal rights ‘in the courts of the State.’ ” *Johnson*, 421 U.S. at 220 (citation omitted). This
14 generally requires a showing that a state law or constitutional provision denies the
15 defendant an opportunity to raise a federal right. *Id.*

16 Olajide’s petition for removal is not particularly comprehensible, and it appears that
17 he is arguing that various state officials, including a police officer, judges, and county
18 clerks, have conspired to deny him his equal civil rights based on his race. Because
19 Olajide has failed to show that state law or the state constitution denies him his ability to
20 raise a federal right, the court finds that on its face the petition lacks merit and that
21 summary remand is appropriate.

22 Additionally, Olajide has failed to comply with 28 U.S.C. § 1455 which governs the
23 procedure for removal of state court criminal prosecutions. That statute requires Olajide to
24 attach “a copy of all process, pleadings, and orders served upon such defendant or
25 defendants in such action,” which he has failed to do. See 28 U.S.C. § 1455(a). Failure to
26 do so similarly requires summary remand. *Id.* at § 1455(b)(4). Moreover, Olajide has not
27 demonstrated that the 2009 misdemeanor charges are pending as required by § 1455(a).
28

1 For these reasons, the court summarily remands the matter to the Alameda County
2 Superior Court. The clerk shall close both the criminal case and newly opened civil case.

3 **IT IS SO ORDERED.**



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5 Dated: October 31, 2012

PHYLLIS J. HAMILTON
United States District Judge